

# HINSHAW

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January 9, 2014

**VIA ECF**

Hon. Therese Wiley Dancks  
United States District Court,  
Northern District of New York  
P.O. Box 7346  
Syracuse, New York 13261-7346

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**Re: Jeffrey D. Reynolds v. Xerox Education Services, Inc. f/k/a  
ACS Education Services, Inc. and Wells Fargo Bank, N.A.  
Docket No. 13-cv-01223-LEK-TWD**

Dear Judge Dancks:

I represent Defendant Xerox Education Services, LLC ("XES") in this action. I am writing respectfully, on behalf of both Defendants, to request a stay of discovery (or a conference to address such a stay) with respect to the breach of contract claim set forth in Plaintiff's Amended Class Action Complaint ("the Amended Complaint") because Plaintiff's are going to move to dismiss that claim as well.

By way of background, prior to the teleconference with Your Honor on December 3, 2013, Plaintiff's counsel agreed to stay all discovery pending the Court's decision with respect to the then-pending motion to dismiss just one of the two claims for relief (namely, the claim based on alleged unjust enrichment) set forth in Plaintiff's Class Action Complaint. During the teleconference, Plaintiff's counsel advised that Plaintiff would amend the Complaint, substituting a GBL § 349 claim in place of the unjust enrichment claim. Defendants agreed, at Your Honor's request, to proceed with discovery with respect to the breach of contract claim of the Amended Complaint because Defendants did not anticipate at that time that they would move to dismiss that claim, but only the GBL § 349 claim. Defendants are going to move tomorrow to dismiss the breach of contract claim after all; that is, Defendants are going to move to dismiss the Amended Complaint in its entirety. Accordingly, Defendants request a stay of all discovery. I asked Plaintiff's counsel if he would consent, as he had before, to a stay of discovery, but he will not agree to do so this time around.

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Thank you for your attention.

Respectfully,

HINSHAW & CULBERTSON LLP

A handwritten signature in black ink, appearing to read "Edward K. Lehen", written over the firm name.

Edward K. Lehen

EKL:jac

cc: Allison J. Schoenthal, Esq.  
Stephen Rabin, Esq.  
Justin Kuehn, Esq.  
Robin Muir, Esq.